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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,335	11/25/2003	Steven J. Cordray	23725.00	3931

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,335

Applicant(s)

CORDRAY ET AL.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/25/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Applicant's election with traverse of Group I in the reply filed on May 19, 2005 is acknowledged. The traversal is on the ground(s) that applicant's "should be entitled to a consideration of a reasonable number of related embodiments falling within the scope of a generic inventive concept." Furthermore, applicant's state "the multiple embodiments identified of record would seemingly encompass a common field of search." This is not found persuasive because applicant's have not pointed to any authority providing the entitlement noted supra, and the examiner is not aware of any. Also, applicant's have not provided any evidence as to what they would consider a proper "common field of search" compared to the examiner's showing of divergent fields of search.

The requirement is still deemed proper and is therefore made FINAL. Accordingly, claims 10-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "opening" set forth in claims 2 and 9 (element 14a is part of the ladder), and "attached to inner surfaces" subject matter set forth in claim 6, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the

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"opening" set forth in claims 2 and 9 (element 14a is part of the ladder) could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 3 and 9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 3 recites a flap member "removably covering said opening." Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. Claim 9 recites similar subject matter.

5. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites a spring "attached to the inner surfaces of said first handle member and said second handle member". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlbeck et al. and Sutton et al.

The Dahlbeck et al. (Dahlbeck) reference discloses an assembly comprising: a cover 50 including a binding (bead, Fig. 7); and a plurality of clip members 45,46. Therefore, Dahlbeck teaches all claimed elements except for the cover being mesh.

Although the material of the Dahlbeck cover is not mesh, as claimed, attention is directed to the Sutton et al. (Sutton) reference which discloses an analogous cover which further includes a mesh material (abstract). Therefore, in consideration of Sutton, it would have been obvious to one of

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ordinary skill in the cover art to associate mesh material with the Dahlbeck cover in order to reduce weight. Furthermore, the choice of particular weight would appear an obvious choice to be made.

8. Claims 1-4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlbeck and Sutton as applied to claim 1 above, and further in view of Burkholz et al.

Although the cover of the Dahlbeck assembly does not include an opening and flap, as claimed, attention is directed to the Burkholz et al. (Burkholz) reference which discloses an analogous assembly which further includes a cover 40 having an opening (defined by 56) and flap 55. Therefore, in consideration of Burkholz, it would have been obvious to one of ordinary skill in the cover art to associate an opening and flap with the Dahlbeck assembly in order to facilitate access.

Furthermore, the flap appears to be "removably covering" the opening in the same sense as with applicant's disclosed invention. Moreover, Burkholz further teaches provision of a binding (hem, Fig. 3) more like that disclosed by applicant.

9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlbeck, Sutton and Burkholz as applied to claim 1 above, and further in view of Walton.

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Although the Dahlbeck clip members do not include handle members, as claimed, attention is directed to the Walton reference which discloses an analogous clip member which further includes handle members A,B. Therefore, in consideration of Walton, it would have been obvious to one of ordinary skill in the clip member art to associate handles with the Dahlbeck clip members in order to facilitate use. Furthermore, Walton teaches provision of teeth D and a spring C.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Carlin reference discloses a clip member having features in common with the instant invention.

11. Claims 7 and 8 are free of the prior art of record.

12. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

13. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
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